

Remarks

In view of the foregoing amendments and the following remarks, reconsideration of the outstanding office action is respectfully requested.

By the above amendments, claims 1 and 13 have been amended to incorporate the limitations of claims 46 and 47, respectively, and claims 46-47 have been cancelled. Claims 1, 3, 13-14, 20-37, and 40-44 are pending and claims 1, 3, 13, 14, 36, 37, and 42 are under consideration.

Applicants have submitted formal drawings to replace the originally filed drawings. The specification has been amended to correspond to the formal drawings filed herewith. No new matter has been added.

Because claims 1 and 13 are allowable for the reasons noted below, rejoinder of the withdrawn method claims is respectfully requested.

The rejection of claims 1, 3, and 4 under 35 U.S.C. § 102(b) as being anticipated by PCT International Patent Publication No. WO 2001/71042 A2 to Venter et al. (“Venter”) as evidenced by U.S. Patent No. 6,355,610 B2 Chesebro et al. (“Chesebro”) is respectfully traversed in view of the above amendments with regard to claims 1 and 3 and is obviated with regard to claim 4, as this claim has previously been cancelled. In particular, applicants have amended claim 1 to incorporate the limitations of claim 46, which was indicated to be allowable by the U.S. Patent and Trademark Office (“PTO”) in the December 30, 2009, Office Action. Accordingly, this rejection of claims 1, 3, and 4 under 35 U.S.C. § 102(b) as being anticipated by Venter as evidenced by Chesebro is improper and should be withdrawn.

The rejection of claims 13 and 14 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,525,492 to Hill (“Hill”) is respectfully traversed in view of the above amendments. In particular, applicants have amended claim 13 to incorporate the limitations of claim 47, which was indicated to be allowable by the PTO in the December 30, 2009, Office Action. Accordingly, this rejection of claims 13 and 14 under 35 U.S.C. § 102(b) as being anticipated by Hill is improper and should be withdrawn.

The rejection of claims 36, 37, and 45 under 35 U.S.C. § 103(a) as being unpatentable over Venter as applied to claim 1 in view of U.S. Patent No. 5,750,361 to Prusiner et al. (“Prusiner”) is respectfully traversed in view of the above amendments and remarks. The rejection based on Venter and Prusiner is improper and should be withdrawn.

The rejection of claim 42 under 35 U.S.C. § 103(a) as being unpatentable over Hill as applied to claim 13 in view of Prusiner is respectfully traversed in view of the above amendments and remarks. The rejection based on Hill and Prusiner is improper and should be withdrawn.

The provisional nonstatutory obviousness-type double patenting rejection of claims 1, 3, 4, 13, 14, 42, and 45 as being unpatentable over claims 1, 3, 4, 13-19, 36-41, 44, and 47-58 of copending U.S. Patent Application No. 12/035,917, is noted. However, Applicants again respectfully request that any requirement for a terminal disclaimer be held in abeyance, pursuant to Manual of Patent Examining Procedure § 804, until the claims of one of the applications are allowed.

Applicants respectfully request consideration of the Information Disclosure Statement filed on February 11, 2010.

In view of all of the foregoing, applicants submit that this case is in condition for allowance and such allowance is earnestly solicited. The Commissioner is hereby authorized to charge any required fees or credit any overpayment to Deposit Account No. 14-1138.

Respectfully submitted,

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